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ORIGIN EB-07

INFO OCT-01 EA-07 IO-11 ISO-00 AGR-05 CEA-01 CIAE-00

COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05 L-03 LAB-04

NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15 STR-04

ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 FEA-01

AF-06 ARA-06 EUR-12 NEA-10 OIC-02 /135 R

DRAFTED BY EB/OT/TA:TFO'HERRON:STMCP

APPROVED BY EB/OT/TA:GLSTREEB

STR:JSTARKEY

USDA:WDOERING

TREASURY:MFELDMAN:WBARREDA

EB/OF/FPD:FMCELDOWNEY

EB/OT/TA:DGRIMMER

EB/OT/STA:WDIROLL

EA/ANP:HNELSON

EB/OT/TA:WGBARRACLOUGH

----- 070908

R 060056Z APR 76

FM SECSTATE WASHDC

TO AMEMBASSY CANBERRA

AMEMBASSY WELLINGTON

INFO USMISSION GENEVA

USDEL MTN GENEVA

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E.O. 11652: N/A

TAGS: ETRD, GATT, AS

SUBJECT: GATT WAIVER FOR U.S. SECTION 22 DAIRY IMPORT
QUOTAS

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REF: CANBERRA 2382

1. SUMMARY. USG CONCERN WITH AUSTRALIAN REQUEST FOR "REVIEW" OF CIRCUMSTANCES UNDERLYING GATT WAIVER FOR SECTION 22 DAIRY QUOTAS IS BASED ON EXPECTATION THAT "REVIEW", PROBABLY INVOLVING FORMAL ITC PUBLIC INVESTIGATION WOULD IN ANY EVENT BE UNLIKELY TO RESULT IN IMPROVED MARKET ACCESS SOUGHT BY GOA. WE HOPE BILATERAL DISCUSSIONS WITH GOA, PARTICULARLY FORTHCOMING TALKS BETWEEN SECRETARY BUTZ AND AUSTRALIAN OFFICIALS, WILL LEAD GOA TO CONCLUDE IT HAS MADE ITS POINTS AND HAS NOTHING TO GAIN BY PRESSING ITS REVIEW REQUEST. USG SEES NO NEED FOR GOA TO TAKE ANY FORMAL STEP TO WITHDRAW ITS REQUEST, WHICH IS NOT NOW AN AGENDA ISSUE IN GATT. MTN PROGRESS IN MEETING LARGER ISSUES OF DAIRY TRADE IS BEST HOPE FOR BOTH US AND AUSTRALIAN INTERESTS. END SUMMARY.

2. SECTION 22 OF AGRICULTURAL ADJUSTMENT ACT OF 1933 PROVIDES THAT INVESTIGATIONS LEADING TO IMPOSITION OF IMPORT

QUOTAS (OR, IN EMERGENCIES, IMMEDIATELY FOLLOWING IMPOSITION) BE CONDUCTED BY "TARIFF COMMISSION" (NOW INTERNATIONAL TRADE COMMISSION--ITC). PARA 1 OF CONDITIONS OF U.S. GATT WAIVER FOR SECTION 22 QUOTAS STATES "UPON REQUEST OF ANY CONTRACTING PARTY WHICH CONSIDERS THAT ITS INTERESTS ARE SERIOUSLY PREJUDICED BY REASON OF ANY IMPORT RESTRICTION UNDER SECTION 22...THE UNITED STATES WILL PROMPTLY UNDERTAKE A REVIEW TO DETERMINE WHETHER THERE HAS BEEN A CHANGE IN CIRCUMSTANCES WHICH WOULD REQUIRE SUCH RESTRICTIONS TO BE MODIFIED OR TERMINATED. IN THE EVENT THE REVIEW SHOWS SUCH A CHANGE, THE UNITED STATES WILL INSTITUTE AN INVESTIGATION IN THE MANNER PROVIDED BY SECTION 22." PARAS 2 AND 3 OF CONDITIONS PROVIDE THAT SUCH AN INVESTIGATION AFFORD CONTRACTING PARTIES AMPLE OPPORTUNITY FOR REPRESENTATIONS. PARA 6 PROVIDES FOR "AN ANNUAL REVIEW" BY THE CONTRACTING PARTIES OF ANY ACTION TAKEN BY THE U.S. AND SUBMISSION OF A REPORT SHOWING ANY MODIFICATIONS IN SECTION 22 AND GIVING THE REASONS WHY RESTRICTIONS CONTINUE IN FORCE.

3. EACH YEAR WE HAVE PRESENTED TO GATT CONTRACTING PARTIES LIMITED OFFICIAL USE

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A REPORT, PREPARED BY USDA, ON OUR SECTION 22 RESTRICTIONS. IN SOME YEARS, A WORKING PARTY HAS CONDUCTED AN INTENSIVE EXAMINATION, BUT RECENTLY REVIEW BY CPS HAS TENDED TO BE MORE OR LESS PERFUNCTORY. AT MOST RECENT MEETING OF CP'S LAST DECEMBER, AUSTRALIAN REP COMPLAINED THAT THESE REVIEWS WERE USELESS BECAUSE THEY HAD HAD NO EFFECT ON U.S. POLICY FOR TWENTY YEARS (75 GENEVA 8972). AUSTRALIA FORMALLY ASKED FOR U.S. REVIEW "IN ACCORDANCE WITH

PARAGRAPH 1 OF CONDITIONS...OF THE U.S. WAIVER."

IMPLICATION OF THIS WAS THAT AUSTRALIA WAS NOT INTERESTED IN ANOTHER EXECUTIVE BRANCH "REVIEW" OF DAIRY SITUATION, BUT APPARENTLY WANTED TO MOVE DOWN THE ROAD TO A FULL ITC "INVESTIGATION" WHERE IT COULD MAKE ITS CASE AT PUBLIC HEARINGS IN THE U.S. REASONS WHY USG WISHES TO AVOID SUCH A MOVE AT PRESENT WERE GIVEN IN STATE 13881.

4. SINCE JANUARY 23, WHEN EMBASSY CANBERRA RELAYED TO GOA OUR REQUEST THAT AUSTRALIA NOT PURSUE ITS CALL FOR A REVIEW IN ACCORDANCE WITH OUR GATT WAIVER FOR SECTION 22 QUOTAS, ISSUE HAS BEEN ON BACK BURNER. IN EFFECT, AUSTRALIA HAS GRANTED OUR REQUEST BY DOING NOTHING. WE NEED NOT CLARIFY WHETHER GOA'S REVIEW REQUEST WAS IN FACT INTENDED TO LEAD TO A FULL ITC INVESTIGATION OR MERELY ANOTHER USDA REPORT. WITH REGARD TO AUSTRALIAN REQUEST FOR USG ADVICE AS TO WHAT PROCEDURES GOA SHOULD FOLLOW TO AVOID "REVIEW" ALREADY ASKED FOR, EMBASSIES CANBERRA AND WELLINGTON MAY INFORM GOA AND GNZ THAT WE SEE NO NEED FOR

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GOA TO DO OR SAY ANYTHING IN GATT. ORIGINAL GOA REQUEST, ALTHOUGH MADE AT MEETING OF GATT CP'S, WAS FOR INTERNAL USG REVIEW, NOT FOR REVIEW BY CP'S. WE UNDERSTAND QUESTION IS NOT PRESENTLY ON ANY GATT AGENDA AND IS UNLIKELY TO SURFACE UNLESS GOA TAKES INITIATIVE.

5. IN EARLY MARCH AUSTRALIAN EMBASSY COUNSELLOR SMITH CALLED ON DEPUTY STR YEUTTER TO DISCUSS GOA THINKING ON WAIVER ISSUE. HE MADE FAMILIAR POINTS, INCLUDING POINT THAT USG IS OWED NOTHING IN RETURN FOR TERMINATION OF WAIVER FOR SECTION 22 QUOTAS, BUT HE ALSO SAID HE RECOGNIZED US POLITICAL PROBLEM AND UNLIKLIHOOD OF COMPLETE LIMITED OFFICIAL USE

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REMOVAL OF QUOTAS OR ELIMINATION OF WAIVER. SMITH SAID GOA WANTS SOME RELAXATION OF QUOTAS, HOWEVER, AS WELL AS REDISTRIBUTION OF ANY UNUSED PORTIONS OF EC QUOTA ALLOCATIONS. SMITH INDICATED BEST WAY OUT OF WAIVER DISPUTE WOULD BE GENERAL LIBERALIZATION OF DAIRY TRADE (INCLUDING END TO, OR MODIFICATION OF, SECTION 22 QUOTAS) WHERE EVERY COUNTRY MAKES CONCESSIONS AND NO CONCESSIONS ARE EXPRESSLY TIED TO U.S. MOVEMENT ON QUOTAS. WE SEE CONSIDERABLE MERIT IN THIS APPROACH, WHICH IS IN LINE WITH USG THINKING AND WITH TACK WE HAVE TAKEN IN MTN.

6. IN LIGHT OF FOREGOING, WE BELIEVE IT MIGHT BE COUNTERPRODUCTIVE TO TELL GOA THAT CONTINUING USG REVIEW OF DAIRY SITUATION MEETS TERMS OF AUSTRALIA'S NOVEMBER REQUEST. EMBASSY CANBERRA THEREFORE NEED TAKE NO ACTION

PURSUANT TO GENEVA 1798.

7. DURING HIS VISIT TO CANBERRA, SECRETARY BUTZ WILL BE PREPARED TO DISCUSS US DAIRY SITUATION AND GATT WAIVER ISSUE WITH GOA OFFICIALS. WE HOPE SUCH DISCUSSIONS WILL SATISFY SHORT RANGE OBJECTIVES OF GOA AND MAKE IT EASIER FOR GOA TO DEFER FURTHER MOVES AGAINST US GATT WAIVER.

8. USDA WILL ENDEAVOR TO PROVIDE TEXTS OF SECRETARY'S BRIEFING MATERIAL TO EMBASSY CANBERRA IN ADVANCE OF SECRETARY'S ARRIVAL. IF NOT POSSIBLE, TEXTS WILL BE AVAILABLE FOR REVIEW UPON ARRIVAL OF BUTZ PARTY AND PRIOR TO TALKS WITH GOA. KISSINGER

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Message Attributes

Automatic Decaptioning: X
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Channel Indicators: n/a
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Concepts: DAIRY PRODUCTS, TARIFF NEGOTIATIONS, IMPORT QUOTAS
Control Number: n/a
Copy: SINGLE
Draft Date: 06 APR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: SmithRJ
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE081923
Document Source: CORE
Document Unique ID: 00
Drafter: TFO:HERRON:STMCP
Enclosure: n/a
Executive Order: N/A
Errors: N/A
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From: STATE
Handling Restrictions: n/a
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Review Date: 10 MAY 2004
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04 MAY 2006

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